

No. 22-50093

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,)	
)	
Plaintiff-Appellee,)	USDC No. CR-17-404-AB
)	
v.)	
)	
JOHN RICHARD BRINSON, JR.,)	
)	
Defendant-Appellant.)	

Appeal from the United States District Court
for the Central District of California
Honorable Andre Birotte, Jr., Judge Presiding

APPELLANT'S REPLY BRIEF

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BRINSON’S LIFE SENTENCE IS SUBSTANTIVELY UNREASONABLE

Brinson argued that his life sentence was substantively unreasonable because the district court failed to properly consider that he could be rehabilitated. The court said only that it would not take a “risk” that he might reoffend someday. (AOB at 26.) Brinson pointed out that the Department of Justice has concluded that offenders like him can be successfully treated. (AOB at 26-27.) The government does not acknowledge this.

Brinson also emphasized that he was only 24 years old when he was arrested and had no prior record. The courts uniformly recognize that the brains of people under 25 are not fully developed. (AOB at 27-31.) The government asserts that “defendant was already a 24-year-old adult who knew that his conduct was wrong.” (GAB at 47.) The government fails to address the caselaw cited that recognizes the scientific evidence that a 24 year old does not have a mature brain.

The issue is not whether Brinson’s crimes are serious and should be punished accordingly. The issue is whether someone who commits such crimes before age 25 should spend the rest of his life in

prison with no hope of ever being released even if he should be fully rehabilitated. If the federal system still had parole for life sentences then a life sentence would not be unreasonable. Brinson could have demonstrated at some point in the future that he should be released.

It goes without saying that it is impossible to decide at this juncture whether someone who commits a serious crime at 24 can never be rehabilitated.

The government cites several cases where the appellate courts have upheld sentences for similar convictions by deferring to the district court concerning the likelihood of rehabilitation. (GAB at 40-41.) But those cases are inapposite.

In *United States v. Blinkinsop*, 606 F.3d 1110, 1114, 1117-1118 (9th Cir. 2010) the defendant was sentenced to 97 months. In *United States v. Lasky*, 592 F.2d 560, 563 (9th Cir. 1979) the defendant was sentenced to 7 years (for cocaine). In *United States v. Barthman*, 983 F.3d 318, 322 (8th Cir. 2020) the defendant was sentenced to 151 months to run concurrent to his state sentence. (See GAB at 40.)

In *United States v. Annoreno*, 713 F.3d 352, 359 (7th Cir. 2013) the defendant was sentenced to 480 months after the district court concluded he could not be rehabilitated. (See GAB at 40-41.) However, a sentence of 480 months for Mr. Brinson would have been substantively reasonable because he would only be 64 years of age when he finished serving his time.

CONCLUSION

For the foregoing reasons, Mr. Brinson's life sentence must be reversed.

Date: June 15, 2023

Respectfully submitted,

/s verna wefald

VERNA WEFALD

Attorney for Appellant John Brinson

CERTIFICATE OF COMPLIANCE

Pursuant to Ninth Circuit Rule 32(e)(4), I certify that the opening brief is proportionately spaced, has a typeface of 14 points or more, and contains 578 words.

Date: June 15, 2023

Respectfully submitted,

/s/ Verna Wefald

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